

Subchapter 37

Recruitment and Selection Policy

2.21.3701 SHORT TITLE (1) This policy may be cited as the recruitment and selection policy. (History: 2-18-102, MCA; IMP, 2-18-102, 49-3-201, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84.)

2.21.3702 POLICY AND OBJECTIVES (1) This policy, consistent with applicable state and federal laws, establishes minimum standards for equitable and consistent treatment of applicants and employees in recruitment and selection for state jobs.

(2) Montana state government is committed to:

(a) attracting and retaining a highly qualified workforce based on competencies and job-related qualifications;

(b) providing applicants with a reasonable opportunity to learn about, and apply and be considered for positions when external recruitment is conducted; and

(c) using a competitive recruitment process to select individuals for permanent status employment.

(3) This policy covers all agencies in Montana's executive branch except the Montana University System, the Montana State Fund, elected officials, personal appointed staff of elected officials, and any other position specifically excluded under 2-18-103 and 2-18-104, MCA. (History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3703 DEFINITIONS For purposes of this subchapter, the following definitions apply:

- (1) "Applicant" means an individual who satisfies the following three criteria:
 - (a) the individual has indicated an interest in the particular position;
 - (b) the agency considers the individual for employment in particular position;and
 - (c) the individual has followed the agency's standard procedures for submitting applications, resumes, or both.
- (2) "Competencies" means sets of measurable and observable knowledge, skills, abilities, and behaviors that contribute to success in a job.
- (3) "External recruitment" means the open, competitive solicitation of applications from any interested persons which includes the general public and current state employees.
- (4) "Internal recruitment" means the open, competitive solicitation of applications that, at the agency's discretion, is limited to:
 - (a) current employees of the agency, the division, or other appropriate internal unit; or
 - (b) employees laid off from the agency or participating in the job registry.
- (5) "Job analysis" means the process of gathering, analyzing, and creating information about a position to identify the essential duties, functions, roles, and competencies required to perform the work, and the written documentation of the analysis.
- (6) "Job-related" means criteria shown by a job analysis to be directly related to specific duties or to a necessary job qualification or competency.
- (7) "Qualifications" means the minimum requirements needed to perform the job on the first day of employment and the education, experience, and competencies associated with successful job performance. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2007 MAR p. 33, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3704 JOB REGISTRY PROGRAM AND REEMPLOYMENT FOLLOWING LAY-OFF (REPEALED) (History: 2-18-102, MCA; IMP, 2-18-102, 2-18-1201, 2-18-1202, 2-18-1203, 2-18-1204, 2-18-1205, 2-18-1206, 49-3-201, MCA; NEW, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 1996 MAR p. 401, Eff. 2/9/96; AMD, 1997 MAR p. 2279, Eff. 12/16/97; AMD, 2003 MAR p. 1531, Eff. 7/18/03; AMD, 2006 MAR p. 2901, Eff. 11/23/06; REP, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3705 LIMITED REEMPLOYMENT FOR RETIREES (TRANSFERRED) (History: 2-18-102, MCA; IMP, 2-18-102, 49-3-201, MCA; NEW, 2006 MAR p. 2901, Eff. 11/23/06; TRANS, to ARM 2.21.3710, 2010 MAR p. 2208, Eff. 9/24/10.)

Rule 2.21.3706 reserved

2.21.3707 INTERNAL RECRUITMENT (1) Agency managers shall use a competitive process when recruiting internally to fill permanent positions.

(2) Agency managers may:

(a) limit the internal competitive recruitment process to:

(i) current employees of the agency, division, or other appropriate internal unit; or

(ii) current employees and employees who have been laid off from the agency within one year of the effective date of layoff. Reinstated employees are not required to participate in a competitive process to be rehired as provided in Implementing a Reduction In Force, MOM Policy 3-0155;

(b) limit recruitment to laid-off employees participating in the job registry as provided in Implementing a Reduction In Force, MOM Policy 3-0155. Agency managers are encouraged, but not required, to consider applicants included in the job registry before recruiting from the general public; or

(c) recruit internally to the agency, division, or other appropriate internal unit and to the job registry simultaneously unless this practice conflicts with agency policy or the provisions of a collective bargaining agreement.

(3) Agency managers may consider temporary employees hired through a competitive process in an internal recruitment; however, student interns and short-term workers are not eligible to compete.

(4) Agency managers may reassign current employees to temporary assignments not exceeding two years without a competitive process. Agency managers shall use a competitive process when filling the position on a permanent basis.

(5) Agency managers shall post internal vacancy announcements according to agency standard procedures. The internal vacancy announcements should contain information similar to that required in ARM 2.21.3709, Vacancy Announcements. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1990 MAR p. 1949, Eff. 10/26/90; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2003 MAR p. 1531, Eff. 7/18/03; TRANS & AMD, from ARM 2.21.3712, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3708 EXTERNAL RECRUITMENT (1) Agency managers shall use an external competitive recruitment process unless the agency:

(a) fills a position through internal recruitment, as provided in ARM

2.21.3707, Internal Recruitment;

(b) fills a position with a participant in on-the-job training, work experience, or other programs such as those conducted under the federal Workforce Investment Act.

Examples include:

(i) dislocated worker programs;

(ii) adult and youth programs;

(iii) welfare-to-work programs;

(iv) Native American programs;

(v) veterans' employment and disabled veterans outreach programs;

(vi) programs authorized under Title I, parts A and B of the federal Rehabilitation Act; and

(vii) school-to-work programs;

(c) recalls a seasonal employee, as defined in 2-18-101, MCA, who was originally selected using a competitive process;

(d) selects a short-term worker or student intern as defined in 2-18-101, MCA; or

(e) fills a position with a retiree consistent with ARM 2.21.3710, Limited Reemployment for Retirees.

(2) Agency managers shall post a vacancy announcement for all positions open to external recruitment on the State of Montana Employment Information web site for at least five working days. The State Human Resources Division, Department of Administration, maintains the State of Montana Employment Information web site <http://mt.gov/statejobs/statejobs.asp>.

(3) Agency managers shall post vacancy announcements for temporary employment, as defined in 2-18-101, MCA, or for permanent positions being filled on a temporary basis with the State of Montana Employment Information web site, unless the agency director or designee decides the position must be filled immediately or other conditions exist that make it impractical to follow procedures outlined in this policy.

(4) Agency managers may do, but are not limited to, the following:

(a) distribute vacancy announcements to appropriate recruitment sources in an effort to achieve a diverse workforce;

(b) limit external recruitment advertising to a geographic area. However, all properly completed applications received by the closing date must be considered, regardless of whether the applicant resides within that geographic area; and

(c) seek applicants for vacant positions using an applicant search service.

(History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 1997 MAR p. 2279, Eff. 12/16/97; AMD, 2003 MAR p. 1531, Eff. 7/18/03; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3709 VACANCY ANNOUNCEMENTS (1) Vacancy announcements must be clear, concise, and well-organized. At a minimum, they should contain all the information provided in the state's Guidelines for Preparing Vacancy Announcements found at the State Human Resources web site: <http://hr.mt.gov/hrpp/guides.mcp> and also available from the State Human Resource Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, telephone (406) 444-3871. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3710 LIMITED REEMPLOYMENT FOR RETIREES (1) Agency managers may reemploy, without a competitive hiring process, an employee who previously retired from the agency if:

- (a) the retiree possesses the requisite skills and qualifications to perform the duties and responsibilities of the position;
- (b) the agency determines that reemployment is in the agency's best interests; and
- (c) the reemployment does not exceed 12 months.

(2) Agency managers shall document the reasons for reemployment and why it was in the agency's best interests. The documents must be kept in employee's permanent personnel file.

(3) The hour and wage limitations set forth for retirees in 19-3-1106 and 19-20-731, MCA, apply to retiree reemployment. Questions concerning hour and wage limitations should be directed to the Montana Public Employee Retirement Administration or Montana Teachers' Retirement System. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 2006 MAR p. 2901, Eff. 11/23/06; TRANS & AMD, from ARM 2.21.3705, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3711 COMPLIANCE WITH MILITARY SELECTIVE SERVICE ACT

(1) Agencies shall verify that every male person hired on a full-time or part-time basis in permanent or temporary positions has registered in compliance with the federal Military Selective Service Act, except those excluded in (2) of this rule. If an individual has reached his 18th birthday and is under the age of 26, agencies shall require documentation showing he has registered with Selective Service or is exempt from registration. If an individual is age 26 or older and was required to register but has not done so, the individual shall prove to the agency job representative his failure to register was neither known nor willful.

(2) Agencies may exclude certain individuals from their verification procedures who:

- (a) were born on or before December 31, 1959;
- (b) have been continuously employed in state government without a five-day break in service before July 1, 2001;
- (c) are transferring without a five-day break in service to another position in an agency or in state government;
- (d) have already provided information confirming selective service status; or
- (e) are hired as independent contractors or as employees of temporary service contractors.

(3) Agency managers may determine the types of documentation an individual shall provide showing compliance with the federal Military Selective Service Act. At a minimum, agencies shall require a written statement of selective service status.

(4) Agencies shall request the documentation described in this rule at the time they make an employment offer. Agencies may adopt reasonable timelines for individuals to provide the documentation. The Department of Administration has published the Montana Selective Service Compliance Guide to assist agencies in complying with this rule and the Military Selective Service Act. The guide provides examples of adequate documentation and information about who must register with selective service. If an individual does not provide documentation as required, agencies shall:

- (a) rescind an employment offer; or
- (b) terminate the individual's employment.

(5) Agency managers shall file the Statement of Selective Service Status Form in the employee's permanent personnel file. (History: 2-15-130, MCA; IMP, 2-15-130; NEW, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3712 INTERNAL RECRUITMENT (TRANSFERRED) (History: 2-18-102, MCA; IMP, 2-18-102, 49-3-201, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1990 MAR p. 1949, Eff. 10/26/90; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2003 MAR p. 1531, Eff. 7/18/03; TRANS, to ARM 2.21.3707, 2006 MAR p. 2901, Eff. 11/23/06.)

2.21.3713 REDUCTION IN FORCE REGISTRY OPTION (REPEALED) (History: 2-18-102, MCA; IMP, 2-18-102, 49-3-201, MCA; NEW, 1991 MAR p. 433, Eff. 4/12/91; AMD, 1994 MAR p. 1412, Eff. 5/27/94; REP, 1996 MAR p. 401, Eff. 2/9/96.)

Rule 2.21.3714 reserved

2.21.3715 EQUAL EMPLOYMENT OPPORTUNITIES (REPEALED) (History: 2-18-102, MCA; IMP, 2-18-102, 49-3-201, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 1997 MAR p. 2279, Eff. 12/16/97; AMD, 2003 MAR p. 1531, Eff. 7/18/03; AMD, 2006 MAR p. 2901, Eff. 11/24/06; REP, 2010 MAR p. 2208, Eff. 9/24/10.)

Rules 2.21.3716 and 2.21.3717 reserved

2.21.3718 JOB ANALYSIS (REPEALED) (History: 2-18-102, MCA; IMP, 2-18-102, 49-3-201, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1997 MAR p. 2279, Eff. 12/16/97; REP, 2006 MAR p. 2901, Eff. 11/24/06.)

2.21.3719 DEVELOPMENT OF SELECTION PROCEDURES

(1) Individuals familiar with the position shall develop selection procedures before any review of applicant qualifications.

(2) Each selection procedure must be job-related and based on a current job analysis.

(a) Agency managers shall review the written position description or job profile to ensure it accurately describes the current job duties, competencies, education, and experience to perform the job.

(b) For further guidance, agency managers may refer to the recruitment and selection resources found at the State Human Resources Division web site: <http://hr.mt.gov/hrpp/guides.mcp> and also available from the State Human Resources Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, or telephone (406) 444-3871.

(3) Selection procedures must include defined processes measuring the applicant's suitability for a particular position based on job requirements and ability to integrate successfully into the work unit and agency's culture.

(4) Agency managers may use any selection procedure or combination of procedures that best assess the applicant against the job qualifications. Agencies shall review and update their selection procedures as vacancies occur. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 1997 MAR p. 2279, Eff. 12/16/97; AMD, 2003 MAR p. 1531, Eff. 7/18/03; AMD, 2006 MAR p. 2901, Eff. 11/24/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3720 ADMINISTRATION OF SELECTION PROCEDURES

(1) During each step in the selection processes, agency managers shall apply consistent selection procedures regarding:

(a) content of the procedure applied;

(b) sequence of procedures;

(c) persons involved in administering the process; and

(d) the maximum time allotted wherever timed procedures are used.

(2) Consistent treatment does not mean identical treatment. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3721 EVALUATION OF QUALIFICATIONS (1) Agency managers and individuals involved in the selection shall use job-related processes to evaluate the applicant's qualifications against the job requirements and ability to integrate successfully into the agency's culture.

(2) Agency managers and individuals involved in the selection process shall recognize the unique backgrounds and experiences of each applicant. Selection procedures must be flexible enough to elicit information about the applicant's qualifications and potential contributions to the work unit. Agency managers shall compare applicants to the job qualifications and others in the applicant pool to select the best applicant for the job and work unit.

(3) Agency managers may select from any of the most qualified group of applicants. The public employment hiring preferences must be applied as provided in Veterans' Employment Preference, MOM Policy 3-0172, revised October 3, 2003; Persons with Disabilities Employment Preference, MOM Policy 3-0171, revised February 11, 2000; and as provided in 2-18-111, MCA, Hiring preference for residents of Indian reservations for state jobs within reservation. These policies are incorporated by reference and are also available from the State Human Resources Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, or telephone (406) 444-3871. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

Rule 2.21.3722 reserved

2.21.3723 INTENTIONAL MISREPRESENTATION (1) Agency managers may exclude an applicant from further consideration for employment or discharge an employee if they learn an applicant intentionally misrepresented facts about their qualifications or job history during the recruitment and selection process.

(2) The state employment process (online and traditional application) includes a verification notice. The information applicants provide is subject to verification. Willful misstatements of qualifications may exclude an applicant from further consideration for the position or may result in discharge from employment. (History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1997 MAR p. 2279, Eff. 12/16/97; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3724 NOTIFICATION OF APPLICANTS (1) Agency managers shall notify all applicants of their status in the selection process.

(2) As provided in ARM 2.21.1428, Hiring Decision (Persons with Disabilities Employment Preference policy) and 2.21.3617, Hiring Decision (Veterans' Employment Preference policy), when an applicant claims an employment preference, agency managers shall:

- (a) provide the applicant a written notice of the hiring decision; and
- (b) maintain a record of the notification and date sent. (History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2003 MAR p. 1531, Eff. 7/18/03; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

Rule 2.21.3725 reserved

2.21.3726 DOCUMENTATION (1) Agency managers shall document the following in the recruitment and selection process:

- (a) job information;
- (b) screening information; and
- (c) applicant information.

(2) For the purposes of this subchapter, "job information" includes but is not limited to:

- (a) a description of the current duties of the job;
- (b) a copy of the vacancy announcement;
- (c) a copy of newspaper or journal advertising, if any;
- (d) a list of all recruitment sources used; and
- (e) a copy of Internet posting, if any.

(3) For the purposes of this subchapter, "screening information" includes but is not limited to:

- (a) a copy of all selection procedures and any criteria used to evaluate qualifications;
- (b) the names and titles of any persons who participated in the design or administration of the selection procedures; and
- (c) a statement of why and how the hiring decision was made.

(4) For the purposes of this subchapter, "applicant information" includes, but is not limited to:

- (a) all applications, supplemental question responses, evaluation notes, reference checks, and any other application materials received;
- (b) applicants' demographic information from the applicant survey page; and
- (c) correspondence with applicants.

(5) Agencies shall maintain items listed in this rule for a period of time consistent with the General Records Retention Schedule found at <http://sos.mt.gov/Records/State Forms.asp> and also available from Records and Information Management, Montana Secretary of State, 130 Bozeman Street, P.O. Box 202801, Helena, MT 59620, telephone (406) 444-9000. (History: 2-18-102, MCA; IMP, 2-18-102; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 1997 MAR p. 2279, Eff. 12/16/97; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

2.21.3727 ACCESS TO SELECTION MATERIAL (REPEALED) (History: 2-18-102, MCA; IMP, 2-18-102, 49-3-201, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2003 MAR p. 1531, Eff. 7/18/03; REP, 2006 MAR p. 2901, Eff. 11/23/06.)

2.21.3728 ACCESS TO DOCUMENTATION AND CONFIDENTIALITY

- (1) Job information as described in ARM 2.21.3726(2) is public information.
- (2) Screening information as described in ARM 2.21.3726(3) is public information; however, an agency may maintain the confidentiality of selection procedures and criteria if:
- (a) the agency can establish a legitimate business need to reuse the procedures and criteria; or
 - (b) agency managers determine public disclosure of the information would jeopardize the agency's ability to select the best-qualified candidate for the position.
- (3) Applicant information described in ARM 2.21.3726(4) is confidential pursuant to Montana's constitutional guarantee of privacy; however, an agency may release applicant information to third parties if the agency:
- (a) receives a court order;
 - (b) receives a release from the applicant; or
 - (c) notifies applicants, as part of the application or selection process, that upon weighing the merits of public disclosure against an applicant's individual privacy interests, the agency has determined continued consideration for the position was contingent upon the applicant providing authorization for release of specified applicant information.
- (4) Agency managers shall release applicant information under (3) consistent with the terms of the court order or release. (History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 1994 MAR p. 1412, Eff. 5/27/94; AMD, 2003 MAR p. 1531, Eff. 7/18/03; AMD, 2006 MAR p. 2901, Eff. 11/23/06; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)

Rules 2.21.3729 through 2.21.3734 reserved

2.21.3735 CLOSING (1) This subchapter must be followed unless it conflicts with negotiated labor agreements or specific statutes, which govern to the extent applicable. (History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 1984 MAR p. 1560, Eff. 10/26/84; AMD, 2010 MAR p. 2208, Eff. 9/24/10.)